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The Impact of Victim-Offender Familial Relationships

on Capital Sentencing Outcomes

by

Katharine D. Evans

A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts
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The Impact of Victim-Offender Familial Relationships on Capital Sentencing Outcomes

Katharine D. Evans

ABSTRACT

This study is an investigation of whether familial relationships among offenders and their victims affect capital sentencing. Using a sample of capital cases from North Carolina restricted to familial homicides, logistic regression models are used while controlling for legal and extra-legal factors that influence decision outcomes. Such models of capital sentencing are developed to (1) determine whether familial-victim cases have unique correlates; and (2) whether there are variations in the effects of these correlates across gender. Contradictory to these hypotheses, results suggest that acquaintance and stranger relationships are less likely to receive a capital outcome when compared to familial relationships. Therefore, in North Carolina it appears that familial relationships receive capital outcomes more frequently than other types of victim-offender relationships. Additionally, gender of both victim and offender, do not exhibit a statistically significant effect in North Carolina at the penalty processing phase of capital trials.

Chapter One

Literature Review

Historical Impacts of Capital Punishment Sentencing

Controversy over the application of the death penalty within the United States has been ongoing for decades with matters pertaining to its constitutionality. In *Furman v. Georgia* (1972), a 5-4 Supreme Court ruling found that the death penalty, as practiced in the U.S., was unconstitutional based upon its arbitrariness and capriciousness and was in violation of the Eighth and Fourteenth Amendments.[1] In essence, the Court agreed that the imposition of death on a small minority of cases was standardless and lacked guidelines necessary to prevent its administration in a discriminatory manner. For the first time in history, each of the five majority justices wrote separate concurring opinions. Justices Brennan and Marshall concluded that the death penalty as imposed would violate the Constitution under *any* circumstance. However, the remaining majority, Justices Douglas, Stewart, and White, suggested it was not the death penalty itself that was deemed unconstitutional; rather the death-sentencing system in its entirety was unconstitutional. Such a conclusion was rendered due to "the infrequency with which juries actually imposed the death penalty, and the lack of any legitimate explanation of why some persons among those convicted of atrocious crimes received life sentences,

[1] Violation of the Eight Amendment on the grounds of "cruel and unusual punishment" and the violation of the Fourteenth Amendment on the grounds of discriminatory conduct prohibited by the equal protection clause (Baldus, Woodworth & Pulaski, 1990).

while others convicted of factually similar cases were sentenced to death" (Baldus, Woodworth & Pulaski, 1990, p. 13).

As a result a moratorium was enacted, halting all executions and invalidating over six hundred death sentences (Greenberg, 1982). Many states wishing to retain the death penalty conformed to the recommendations suggested in the majority opinions, and quickly revised their statutes to address the issues exposed in the *Furman* decision. The Supreme Court approved four years later in the *Gregg* decision, [2] a general model incorporating constitutional improvements to the death-sentencing system. A bifurcated trial system now required two distinct phases in all capital murder trials, first a trial phase to determine guilt, and second if guilt was found, a penalty phase to determine the appropriate sentence.

By allowing flexibility in the prosecuting of these cases, the law attempted to both standardize and individualize each case. Individualization was now made possible by the admittance of aggravating and mitigating circumstances during the penalty phase. Aggravating circumstances, those factors that support the finding of a death sentence, are weighed against mitigating circumstances, those factors that attempt to explain the defendant's background and circumstances that may warrant a life sentence as opposed to a death sentence. Prior to *McKoy v. North Carolina* (1990), the Supreme Court ruled that, with regards to mitigating circumstances, juror unanimity was required before a jury could weigh it against any aggravating circumstance accepted. Therefore, all members of

[2] Five court cases were heard by the Supreme Court on March 31, 1976 (*Gregg v. Georgia*, *Proffitt v. Florida*, *Jurek v. Texas*, *Woodson v. North Carolina*, and *Roberts v. Louisiana)*. On July 2, 1976 the Supreme Court returned a verdict, commonly referred to as the *Gregg* Decision. *Gregg* is comprised of only the three cases in which the Supreme Court ruled in favor by a 7-2 vote (*Gregg v. Georgia*, *Proffitt v. Florida, and Jurek v. Texas*). *Woodson v. North Carolina* and *Roberts v. Louisiana* were struck down by a 5-4 ruling on the grounds that the death penalty cannot be mandatory following a first degree murder conviction (*Woodson*) or for certain categories of victims (*Roberts*).

a jury had to agree that the mitigating circumstance existed; if the decision was not unanimous, the mitigating circumstance could not be used in the sentencing deliberations. However, *McKoy* (1990) reversed this decision on the grounds that it violated the Eighth Amendment. The ruling held that the sentencing instructions prevented a jury from considering mitigating factors that it did not find unanimously. The resulting effect allowed juries to weigh mitigating circumstances against aggravating circumstances, even if the mitigating circumstance was not found to be unanimous amongst the jury. Studies have shown that aggravating and mitigating circumstances have been important factors in sentencing decisions (Baldus, Grosso & Christ, 2002; Baldus, Woodworth & Pulaski, 1983, 1985, 1990; Paternoster & Kazyaka, 1988).

Previous case law has established a range of weights the courts can apply as to such circumstances (Baldus et al., 1983). Aggravators such as "heinous, atrocious, and cruel (HAC)" and "cold, calculated, and premeditated" are often weighed, thus warranting a death sentence as stand alone aggravators (Acker, Bohm & Lanier, 2003). As of 2003, 75 percent of all jurisdictions with the death penalty involve some variation of the Model Penal Code's provision that the murder "was especially heinous, atrocious, or cruel, manifesting exceptional depravity" (American Law Institute 1980:210.6(3)(h)). The most common revision to "heinous, atrocious, and cruel" circumstance refers to murders that are "outrageously or wantonly vile, horrible or inhumane, in that they involved torture, depravity of mind, or an aggravated battery to the victim" (Acker & Lanier, 1994b, p. 128). Analyses of these factors found that higher endorsements of the aggravator, "crime especially heinous, atrocious, and cruel", indicated a greater likelihood of sentencing the defendant to death (Moran & Butler, 2002). Paternoster and

Kazyaka (1988) found that the state was more likely to seek a capital sentence when no mitigating circumstances were submitted. Baldus et al. (1990) report that contemporaneous offenses (i.e. homicides committed while in the commission of a rape, armed robbery, kidnapping, burglary, or arson) and vile murder circumstances (i.e. circumstances that are exceptionally wanton or committed in a horrible manner) are the two most important aggravating circumstances, leading all others both in the numbers of defendants they make death-eligible and in the number of cases in which they appear that actually result in a death sentence.

The entire legal process, stemming from arrest to sentencing, has been analyzed in great detail to provide evidence as to the circumstances that might substantiate a sentence of death. In its entirety, the combination of such research suggests that the decision to impose death is immensely complex. Research on capital punishment has offered mixed results regarding its necessity and impact within the criminal justice system with; a vast amount of literature has provided evidence of its historical arbitrariness and discrimination in its administration (Baldus & Woodworth, 1997; Baldus et al., 1990; Baldus, Woodworth, Zuckerman, Weiner & Broffitt, 1998; Bright, 1998; Bowers, 1984; Foley, 1987; Gross & Mauro, 1989; Keil & Vito, 1995; Paternoster, 1991; Radelet & Pierce, 1985; Radelet & Vandiver, 1983; Streib, 1998). In arriving at a life or death sentence, factors not only of the crime, but also of the victim, the offender, and the relationship between the two have been analyzed as to the impact, if any, they have on the resulting outcome.

Effects of Offender Characteristics on Sentencing Outcomes

Studies of individuals suspected, accused, and subsequently convicted of murder that warrant a sentence of death, have largely focused only on the characteristics of the offender. Male offenders receive death sentences far more often than females, even though females commit roughly one in ten of all criminal homicides (McGuire & Pastore, 2001). According to Rapaport (1993), if men and women were treated equally in the eyes of the law, women would receive approximately 4 to 6 percent of all death sentences, as opposed to the current approximation of 2 percent. Gender discrimination may be due in part to the conscious or subconscious attitudes of key actors in the criminal justice process and death penalty laws themselves.

First surfacing during the Middle Ages, the term chivalry represented a set of values depicting a more refined "gentlemanly" conduct. Men were required to protect and fight for women, who were the weaker, more vulnerable sex (Moulds, 1978). During recent decades, considerable attention has been given to the gender inequality of the criminal sentencing system. Granting leniency to female offenders appears to foster the continuance of chivalrous conduct, evidenced in such patterns of paternalism and patriarchal views as displayed through the actions of judges and other actors working within the contemporary criminal justice system (Koons-Witt, 2002). Research has demonstrated that female offenders appear to receive lighter sentences than their male counterparts (Belknap, 2001; Crew, 1991a; Hedderman & Hough, 1994). As such, aggravating and mitigating circumstances enumerated in death penalty laws may bias the application of the death penalty in favor of women (Bohm, 2003).

Several studies have examined the effects of the race of an offender on the likelihood of receiving a death sentence (Baldus & Woodworth, 1997; Baldus, Woodworth, Zuckerman, Weiner & Brofitt, 1998; Bright, 1997; Marquart, Sheldon & Sorenson, 1994), concluding that Blacks disproportionately receive death sentences. The pre-*Furman* era was notorious for the death penalty to be inflicted arbitrarily and capriously. According to an evaluation synthesis of 28 post-Furman studies prepared by the U.S. General Accounting Office (GAO) and published in 1990, "more than half of the studies found that race of defendant influenced the likelihood of being charged with a capital crime or receiving the death penalty, and in more than three-fourths of the studies that identified race-of-defendant effect, Black defendants were more likely to receive the death penalty" (U.S. General Accounting Office, 1990, p. 6).

Effects of Victim Characteristics on Sentencing Outcomes

The effects of race and gender on sentencing decisions primarily focus on the offender's characteristics (Crawford, 2000; Crawford, Chiricos & Kleck, 1998; Mustard, 2001; Spohn & Holleran, 2000; Steffensmeier, Kramer & Steifel, 1993; Steffensmeier, Ulmer & Kramer, 1998). However, "because at least two persons are involved in every homicide – the victim and the offender – it is of interest to know what the differences are, if any, between them" (Wolfgang, 1958, p. 6). Therefore, in determining whether the accused receives life or death, characteristics of the victim as well as the offender are ultimately considered.

During the post-*Furman* era, the impact of victim characteristics was challenged in *McCleskey v. Kemp* (1987)[3]; relying on data provided by Baldus et al. (1986), *McCleskey* argued that the race of his victim was significant in its effect on the capital outcome. Baldus et al. (1986) revealed the race of the victim was a predominant factor in deciding whether the offender received a life or death sentence; cases involving White victims were more likely to receive a death sentence when compared to cases involving non-White victims. Further research has continued to examine the impact of the victim's race and gender, finding differential sentencing outcomes still prominent within our justice system (Baldus et al., 1990; Baumer, Messner & Felson, 2000; Farrell & Swigert, 1986; Gross & Mauro, 1989; Keil & Vito, 1992; Paternoster, 1984; Radelet & Pierce, 1991; Thomson, 1997). Williams and Holcomb (2001) found that cases involving female victims were treated more severely than cases with male victims. Furthermore, Williams and Holcomb's (2004) study revealed interactive effects of victim's gender *and* race, concluding that cases involving White victims and female victims were significantly more likely to result in a capital outcome.

In addition to victim demographic characteristics, victim conduct (i.e. actions that may have directly or indirectly contributed to victimization as well as behaviors that may have resulted in perceptions of the moral character of the victim) has also influenced sentencing outcomes. Baumer et al. (2000) concluded that if the victim's behavior was perceived to be a contributing factor in his/her victimization, juries were more likely to

[3] Challenging the constitutionality of the post-*Furman* statutes, *McCleskey v. Kemp* (1987) argued that Georgia's new death penalty statute revealed a pattern of racial discrimination based not only on the race of the offender but also on the race of the victim. The Court, by a five to four ruling, stated that despite evidence showing a pattern of racial discrimination state wide, racial discrimination must be proven in individual cases. Falling short of this requirement, *McCleskey* did not provide such evidence to render the death penalty unconstitutional.

view the offender as less blameworthy. Sentencing outcomes in other types of criminal trials, such as sexual assault cases processed within the criminal justice system, have also shown that victim characteristics are pivotal in the resulting sentence (Horney & Spohn, 1996). Furthermore, "risk taking behavior on the part of the victim (Kalven & Zeisel, 1966), by victim misconduct (Myers & LaFree, 1982), by the victim's reputation (Field & Bienen, 1980; McCahill, Meyer & Fischman, 1979), by the victim's occupation and/or education (McCahill et al., 1979), and by the victim's age have greatly influenced sentencing outcomes within the criminal justice system" (Horney & Spohn, 1996, p. 135).

Effects of Victim-Offender Relationships on Sentencing Outcomes

Much about the nature of violent crime in the United States and how it is changing can be discerned from the extent of family and intimate homicides relative to acquaintance and stranger homicides (Pampel & Williams, 2000). According to Stanko (1982), there exists a general organizational bias within the criminal justice process against cases involving a relationship in which the offender and victim knew each other. "It appears that the complexity of such a relationship negates the simplistic right or wrong dichotomy needed to convict in a criminal trial; a relationship case may be denigrated because it does less violence to the public order and on its surface may appear to be a personal problem" (Buzawa & Buzawa, 1996, p. 85).

Black (1976) proposed that the degree of intimacy (i.e. "relationship distance") between the victim and offender affects the outcomes of legal proceedings in relation to the quantity of law such that within the United States, capital punishment is generally reserved for crimes occurring between strangers. Hence, the greater the distance

relationship between the victim-offender pair, the greater the quantity of law. Following this perspective, the implication that police are more likely to arrest suspects in violent disputes between strangers, and less likely to make arrests in disputes between family members and close friends was analyzed by Felson and Ackerman (2001). Their findings revealed that police are in fact less likely to arrest strangers than non-strangers for assault. However, Felson and Ackerman (2001) are quick to point out that such arrests maybe due in part, because police are often unable to identify offenders in stranger assaults. When identification of offenders was possible, police did appear to show leniency in the cases involving disputes between family and close friends.

Buzawa, Austin and Buzawa (1995) found that, despite a lack of statistical significance, assaults involving domestic violence were less likely to lead to arrest than were assaults between strangers or acquaintances. Further evidence contributing to the leniency factor granted to intimate and familial perpetrators is provided by Fyfe, Klinger and Flavin (1997). Upon examining 392 felony assault cases during 1983-1984 and controlling for several factors (gender, weapon use, and degree of injury), they found that police were less likely to arrest men who assaulted their wives when compared to men who committed other assaults. Avakame, Fyfe and McCoy (1999) also found evidence for the leniency hypothesis based on their analysis of the National Crime Victimization Survey (NCVS). Restricting their analysis to incidents of aggravated assault, rape, and sexual assault among non-strangers, they concluded that police were less likely to make an arrest if the suspect was an intimate than if the suspect was someone else known to the victim. However, Felson and Ackerman (2001) suggest that police are less likely to arrest strangers than non-strangers for assault not entirely due to the leniency hypothesis,

but more so because victims are often unable to identify their offenders in stranger attacks. The leniency present in non-stranger incidents is due to "the reluctance of victims to sign complaints, the absence of witnesses, and the unwillingness of the police to arrest suspects for minor acts of violence against people they know" (Felson & Ackerman, 2001, p. 673).

Additional research has examined the impact of the victim-offender relationship on legal outcomes at various stages of the criminal process involving violence against intimates versus violence perpetrated against strangers, revealing that intimate violence is treated more leniently than non-intimate violence throughout many stages of the criminal justice process. Miethe (1987) found those persons accused of victimization of intimates were more likely to have their cases dismissed at the initial charging phase as well as the pre-trial dismissal stage. Myers (1980) found persons accused of violence against intimates were less likely to be found guilty at trial, and those offenders who were found guilty were less likely to be sentenced to prison (Erez & Tontodonato, 1990) (See Dawson, 2004). Therefore, to accurately portray the legal response to crimes, the relationship between offenders and their victims should be weighed in collaboration with other evidence considered. It is plausible to assume that the relationship itself between the offender and their victim must be examined in its impact to affect a sentence resulting in death.

Most reported killings in the United States occur between persons having had some prior relationship with relatively few homicides involving strangers (Goetting, 1991). However, according to the Bureau of Justice Statistics (1998), in the United States, intimate partner murder dropped from nearly 3,000 per year to fewer than 2,000 in

1996.[4] Likewise, spousal murder, the largest subcomponent of intimate partner murder, declined by 52 percent during this period. However, Rosenfeld (1997) cautions that the declining rates of intimate partner murder may be attributable to a marked increase in the proportion of young people who are not married, rather than the actual decline of violence within intimate relationships. According to the 2003 Uniform Crime Report, 55.5 percent of murders reported a known relationship between the victim and their attacker. Of the 55.5 percent, 77.6 percent knew their assailants; where as 22.4 percent were murdered by strangers. Among the 77.6 percent of the cases that knew their assailants, 70.9 percent were acquainted with their murderers, and 29.1 percent were related to them. Further analysis of the related cases revealed that husbands and boyfriends killed 32.3 percent of female victims, while wives and girlfriends murdered 2.5 percent of male victims. Despite the frequency of intimate partner and familial homicides, few studies have analyzed the offender-victim pair as it affects the outcome of a death sentence (Farrell & Swigert, 1978a; Garfinkel, 1949; Johnson, 1941; Myers & Hagan, 1979; Paternoster, 1984; Radelet, 1981; Wolfgang & Riedel, 1975).

Effects of Victim-Offender Relationships on Capital Sentencing Outcomes

Capital punishment research is vast in its examination of the relationship between the victim and offender as to the impact it serves on the likelihood of receiving a capital outcome. Numerous studies have examined the impact of victim and offender race on the likelihood of a death sentence, concluding that cases involving Black offenders with White victims systematically receive capital outcomes more frequently than any other race combination (Bowers & Pierce, 1980; Garfinkel, 1949; Gross & Mauro, 1989;

[4] BJS (1998) notes that intimate partner murder includes spouses, former spouses, common-law spouses, same-sex partners, boyfriends, and girlfriends.

Johnson, 1941; LaFree, 1980; Paternoster, 1984; Radelet, 1981; Radelet & Pierce, 1994; Wolfgang & Riedel, 1987). Additional studies examining the relationship between the victim and offender and the likelihood of receiving a capital outcome have concluded that gender is a determinative factor. Studies have consistently shown that males are more likely than females to receive a death sentence, and furthermore, males whose victims are females prove to illicit a capital outcome more frequently than any other gender combination (Belknap, 2001; Crew, 1991a; Gross & Mauro, 1989; Hedderman & Hough, 1994). Interactive effects of the victim's gender and race have also been examined, concluding that cases involving White female victims are the most likely to result in a capital outcome (Williams & Holcomb, 2004; Wolfgang & Riedel, 1979).

Rapaport (1991) reports that victim responsibility is an important determinant in the likelihood of an offender receiving a capital outcome in that, if the victim is regarded as somehow being responsible for his/her own abuse (i.e. simply staying in an abusive relationship), than the degree of punishment that appears appropriate for the offender is diminished. Likewise, Mahoney (1991) concluded that separation killers are viewed as more culpable in the eyes of the law because the victim attempted to leave the abusive relationship, thereby attempting to minimize her risk of injury by severing the relationship. Additionally, offenders who killed estranged partners were treated more severely than those who killed current partners (Dawson, 2003). Dawson (2004) expanded the examination of victim-offender relationships as to their impact on outcomes in Canada, concluding that those accused of killing intimates did appear to receive lighter sanctions for the initial years studied (1974-1984). However, the effect was not as apparent for those accused of killing intimates from 1985 through 1996.

With regards to the relationship itself between the victim and offender, studies providing the groundwork for a classification between the types of relationships between victims and their offenders initially classified cases as primary (i.e. family or intimates acting without reason or as an act of passion) or secondary homicides (those committed during another felonious act and involve some degree of decision making) (Parker & Smith, 1979). Studies in the area of homicide have also resulted in the initial classification of the victim-offender relationship as either between strangers or non-strangers (Messner & Tardiff, 1985; Sampson, 1987). Further research continued the distinction into expressive versus instrumental homicides on the basis that expressive homicides are due to an act of rage or fear and instrumental homicides are pursuant to a cost-benefits calculation (Riedel, 1987).

Current Study

Despite these preliminary studies concerning the nature of the victim-offender relationship between intimates and non-intimates as to its impact on the severity of legal sanctions in Canada, (Dawson, 2003; 2004), systematic research has not yet examined the familial relationship that exists between a victim and their offender with regards to its impact on receiving a capital sentence within the United States. The purpose of this study is to investigate the familial relations between offenders and their victims and to analyze how such relationships influence capital sentencing outcomes. No known study exists to date in which victim-offender familial relations were analyzed as to their impact on the imposition of a capital outcome.

Familial homicides span an array of violence within families. It has been long recognized that homicides occur more often in some types of relationships than others,

that is, intimate or primary relationships appear to be more prone to lethal violence than other relationships (Wolfgang, 1958). Intimate partner relationships are defined as "dyadic relationships that involve some degree of consensual intimacy, regardless of the martial status or sexual preference of the partners" (Cardarelli, 1997, p. 2). In a typical year in the United States, about 20,000 homicides occur, but result in only about 300 convicted murderers being sentenced to death (Bohm, 2003).

Because intimate and familial relationships are a nexus for intense emotions, occasions when tension and conflicts arise will be inevitable (Riedel & Best, 1998). Within intimate partner and familial relationships, it may be reasoned that homicides occur at a higher rate than those between strangers, due in part to the elevated level of stress and intimacy within a family unit. Research has shown that many of the homicide studies involving intimate partners were precipitated by the following: (1) husband accusing the wife of being unfaithful; (2) the wife's decision to terminate the relationship and his unwillingness to do so; (3) inability to control his wife; (4) abuse by husbands; (5) economic constraints; and (6) the victim's lack of familiarity with social service organizations that were available (Plass, 1993).

Dobash and Dobash (1979) argue that the contemporary ideology of marriage still allows for the control of wives by their husbands. It is reasoned that as long as the male is seen as the family provider, he inherently will assume more control over the family institution, resulting in the weakened abilities of their wives to exhibit a more proportionate amount of control of familial issues. In contrast, Bailey and Peterson (1995) reported a positive correlation between the improved socioeconomic status of women and the increased victimization rates in acquaintance homicide. In a Canadian

study conducted by Wilson, Daly and Wright (1993), 2699 female victims of homicide were analyzed. The study revealed 1333 women were killed by their husbands, constituting 49.4 percent of the total. An additional 112 (4.1%) were killed by their intimate sexual partners, 607 (22.5%) by their close friends, and 250 (9.3%) by their relatives. Only 397 (14.7%) were killed by strangers. These figures conclude that the chance of a female being killed by her husband or partner is nine times that of being slain by a stranger (Wilson et al., 1993; Plass, 1993). Of the 4,739 women homicide victims in the United States during 1994, 28.4 percent were killed by their husbands or boyfriends (Smith, Moracco & Butts, 1998). According to Moracco et al. (1998), "women are much more likely than men to be killed by intimate partners and a woman is more likely to be killed by an intimate partner than by all other categories of known assailants combined" (p. 422). See also (Browne & Williams, 1993; Kellerman & Mercy, 1992; McGuire & Pastore, 1996).

Among familial homicides, intimate partner relationships represent the most common type of homicides (Goetting, 1991; McClain, 1982). Several studies have revealed partner femicides are typically preceded by a history of domestic violence and often involve the woman's recent separation from her partner (Browne & Williams, 1993; Campbell, 1992; Ellis & DeKeseredy, 1997; Stark & Flitcraft, 1996; Wilson & Daly, 1993). However, homicides not only occur between intimate partners but also cross several other familial lines. Filicide, the murder of a child by a parent, has ranked the United States with the second-highest child homicide rate in the world (Abel, 1986). The research on child murder identifies women, primarily mothers, as the predominant killers (Abel, 1986; Resnick, 1969). Sorenson, Richardson and Peterson (1993) found the

homicide rate of African-American males between the ages of 24 hours to 14 years was 19.68 per 100,000 whereas; the homicide rate of Hispanic children was 3.89 per 100,000. Rates of homicides for non-Hispanic white children were reported as having the least rates per 100,000. They conclude the family members were the most likely assailants of non-Hispanic white children and almost half of the African-American and Hispanic children were killed by family members.

Due to the scant amount of research examining the relationship itself that exists between a victim and their offender (Dawson, 2003; 2004) and drawing from previous research regarding disparity in sentencing, models of cases resulting in a capital sentence are developed to determine whether familial-victim cases have unique correlates and whether there are variations in the effects of these correlates across gender.

The decision on how to screen and prosecute criminal cases that come before the justice system largely rests on the police and prosecutors. Studies have shown that factors not necessarily relating to the criminal act itself, but rather due to factors pertaining to the perceived expectations of the victims and their offenders, have influenced the likelihood of processing throughout the criminal justice system (Dawson, 2004). Over time, these perceived expectations may influence the attitudes of actors within the criminal justice system, who in turn may deem certain crimes as more deserving of the criminal label than others. As first proposed by Black (1976), the degree of intimacy that exists between an offender and their victim is one such characteristic that has been shown to generate stereotypical images in cases of interpersonal violence, thus leading to lower levels of punishment for perpetrators (Miethe, 1987; Rapaport, 1991; Waegel, 1981).

Studies have been conducted in the area of homicide, resulting in the initial classification of the victim-offender relationship as either between strangers or non-strangers (Messner & Tardiff, 1985; Sampson, 1987). Stranger homicides have traditionally been classified as instrumental crimes; crimes where offenders seek to maximize gain while minimizing the risk of apprehension (Decker, 1993). However, because violence between strangers is commonly perceived to be instrumental, and thereby lacking in emotional attachment (Block, 1981; Riedel, 1987; Rojek & Williams, 1993), stranger homicides may increase an offender's culpability of the law and consequently, the severity of punishment imposed. Non-stranger homicides have typically been considered expressive, whereby costs and benefits are not rationally weighed to calculate a perceived reward or gain. Instead, expressive crimes arise from a release of fear, anger, or rage. According to Decker (1993), the classic example of an expressive homicide is the slaying of a spouse or lover.

Additional analyses classify homicides as primary (those occurring between relatives, lovers, and friends) and secondary (those involving person with no known prior relationship) (Parker & Smith, 1979; Smith & Parker, 1980). Because violence between intimates is often regarded as a burst of intense emotion, such as depression or rage, an offender's culpability in the law may be decreased (Dawson, 2004). Moreover, crimes between intimates are often perceived to involve some degree of victim responsibility when compared to crimes between non-intimates (Rapaport, 1991). Studies have found evidence that within the criminal process, victim responsibility or provocation generally mitigates the culpability of an offender, leading to lighter punishments (Miethe, 1987; Williams, 1976). "Based on these and other stereotypes that may be associated with the

victim-accused relationship in cases of interpersonal violence, it is commonly assumed that the degree of intimacy that victims share with the accused will (and possibly should) affect criminal justice outcomes, leading to more lenient sanctions" (Dawson, 2004, p.3).

Several studies suggest that crimes between non-strangers are less likely than those between strangers to be prosecuted, indicted, and convicted (Albonetti, 1987; Bernstein, Kelly & Doyle, 1977; Lundsgaarde, 1977; Myers, 1980; Radelet & Pierce, 1985; Spohn & Spears, 1996; Vera Institute, 1977; Williams, 1976). Peterson and Bailey (1991) report that murder cases that have the following characteristics are the least likely to receive a death sentence: among family members, between friends or acquaintances, while under the influence of alcohol or drugs, and/or undertaken to save face or otherwise in the heat of passion. Under this assumption, this study proposes that stranger murders are more likely to result in a capital sentence when compared to murders committed within intimates and families.

Hypothesis 1. Family murders are less likely to result in a capital sentence than murders committed by strangers or acquaintances, net of other factors salient to capital punishment sentencing outcomes.

During recent decades, considerable attention has been given to the gender inequality of the criminal sentencing system. Granting leniency to female offenders appears to foster the continuance of chivalrous conduct, evidenced in such patterns of paternalism and patriarchal views as displayed through the actions of judges and other actors working within the contemporary criminal justice system (Koons-Witt, 2002). From these chivalrous attitudes, several assumptions are drawn regarding sentencing differences based upon gender (Finns & Stalans, 1997). Research has demonstrated that

female offenders appear to receive lighter sentences than their male counterparts (Belknap, 2001; Crew, 1991a; Hedderman & Hough, 1994).

Using data on defendants charged with violent felonies in Detroit, Spohn and Spears (1997) found that women were more likely than men to have all of their charges against them dismissed. In addition, their analysis revealed that women were less likely to be incarcerated and received shorter prison sentences then their male counterparts. Likewise, Steffensmeier et al. (1993) found, in the state of Pennsylvania, that female offenders were incarcerated less frequently when compared to male offenders. Upon further analysis, Steffensmeier et al. (1993, 1998) revealed a common perception amongst judges that viewed female offenders as less dangerous, less culpable, and more repentant than male offenders. Additionally, the judges felt that the female offenders were more likely than male offenders to have child care responsibilities and mental health problems that could not be treated in a jail or prison setting.

Female offenders are commonly thought of as having greater familial obligations when compared to male offenders (Daly, 1987a, 1987b, 1989). Such research suggests that pretrial release and sentencing decisions are affected by a defendant's family circumstance; however, the leniency granted does not necessarily rest solely on gender but rather on the "protection of families and children" (Daly, 1989, p. 138). According to Daly (1989), "familied" defendants are those that are married and living with a spouse, living with parents or other family members, or caring for young children, and it is these types of defendants that are treated more leniently when compared to those that are non-familied defendants. In addition, Daly's work addressed the mitigating effect of family circumstances of female defendants when compared to male defendants, finding that

family circumstances have more pronounced mitigating effects for females when compared to male offenders. Thus, Daly (1989) concludes that familied women are treated more leniently than familied men.

Familied offenders, and more often, female familied offenders are considered to have greater informal social controls on their behavior (Bickle & Peterson, 1991; Daly, 1989; Kruttschnitt, 1984). "It is assumed that familied defendants have greater informal social control in their lives when compared to non-familied defendants, thus, the familied defendants are thought to be better probation risks" (Daly, 1989, p. 138). When determining sentences, judges often consider the impact of social control of such decisions. If the defendant is a familied female, the social cost will affect her children more significantly when compared to a familied male, as females are usually the primary caregivers and males are typically the economic providers (Daly, 1989). A vast amount of research supports the leniency hypothesis with regards to female offenders. However, other studies have produced inconsistent findings in regards to females who commit crimes that are deemed masculine, or that violate the typical gender norms of femininity on the basis of the "evil woman" hypothesis (Johnson & Scheuble, 1991; Nagel & Hagan, 1983). Such studies have concluded that sentencing outcomes for females behaving in criminal, masculine ways, or commit crimes that are deemed to be masculine in nature are not treated with leniency. In fact, at times females are treated more severely when compared to males who commit comparable crimes due to the violation of the traditional female gender role. Despite the scarce amount of literature disputing the leniency theory, this study proposes that female offenders receive preferential treatment as a result of the patriarchal views and attitudes embedded within the criminal justice system. Thus, male

offenders are more likely to receive a death sentence when compared to female offenders. This leads to the next hypothesis.

Hypothesis 2. Net of other factors salient to capital punishment outcomes, among family murders, male offenders are more likely to receive a death sentence when compared to the female offenders.

The gender of the victim may also contribute to disparity in sentencing. Studies have examined the effect of the victim's gender on the defendant's sentence, consistently finding that homicides with female victims are treated more severely than those with male victims. Gross and Mauro (1984) found that capital cases with White female victims were more likely to receive a death sentence than for defendants with Black male victims. Farrell and Swigert (1986) found the severity of conviction decreased from male-female to female-female, male-male, and female-male offenses. Therefore, homicides involving male defendants whose victims are female elicit a more severe response than do homicides involving female defendants whose victims are males. Individuals who kill men are more likely to act in response to victim precipitation than those who kill women, by the virtue of the fact that men are relatively more violent (Felson & Messner, 1998). Offenders who kill the victim in response to a physical attack are less likely to be prosecuted; if they are prosecuted, they are less likely to be indicted; and if they are indicted, they are less likely to be convicted of the most serious indictment charge rather than a reduced charge (Baumer et. al., 2000).

Studies have revealed that homicides in which women kill their husbands are likely to be precipitated by their husband's violent behavior and to be motivated by self-defense (Goetting, 1995; Saunders, 1986). Victim precipitation was more likely in the

homicides in which women killed their male partners than in homicides in which women killed someone else (Mann, 1988). In contrast, homicides in which men kill their female partners is evidenced by men being more likely than women to precipitate assaults and homicides with their own violent behavior (Curtis, 1974). "Harsher sentences for crimes against female victims by male perpetrators may be due in part to the perceived "innocence" of female victims and the "undeserving" nature of their victimization, the perceived "defenselessness" of females, and the perception that females are less likely to contribute to their own victimization" (Holcomb et al., 2004, p. 883). Under this notion of perceived innocence of female victims, this study proposes that those who kill females are more likely to receive a death sentence than those who kill male family members or partners. This leads to the next hypothesis.

Hypothesis 3. Net of other factors salient to capital punishment sentencing outcomes, among family murders, those who kill females are more likely to receive a death sentence than those who kill male family members or partners.

The current study will assess outcomes of these hypotheses. Results will provide information as to whether the victim-offender familial relationship impacts the likelihood of receiving a capital outcome in North Carolina. Additionally, this study will assess, among familial cases, whether males are more likely to receive a capital outcome when compared to females and whether killers of females are more likely to receive a capital outcome when compared to killers of males.

Chapter Two

Methodology

Data

The analysis is based on information from reviews of capital murder trials in North Carolina. These cases were determined from *Lexis Nexis* searches of North Carolina Supreme Court and Court of Appeals cases. In these trials, the defendants were convicted of, or pled guilty to, 1st degree murder, the state sought the death penalty, the trial progressed to a sentencing phase whereby the jury heard evidence concerning aggravating and mitigating factors, and the jury issued a binding recommendation for a sentence. In making a sentencing recommendation, North Carolina capital juries have only two options, a death sentence or a sentence of life in prison, currently one without the possibility of parole except by executive clemency. Included in the analyses are cases where a sentencing phase was conducted, but the jury declared that they could not reach the required unanimous decision regarding a sentence (in essence, a "hung jury"), resulting in the default sentence of life in prison.

Reviews of capital trials were derived from public records materials that accompany decisions regarding appeals of capital murder convictions rendered by the North Carolina Supreme Court and the North Carolina Court of Appeals. These materials include defendant and state briefs, as well as a form completed by the jury that records their responses to aggravating and mitigating factors, and concludes with the jury's sentencing recommendation. Historically, these materials have been published in hard

copy form and placed in two university law libraries in North Carolina, while other locations have microfilm copies. Beginning with decisions returned from cases tried in 1999, hard copies have not been made available, but materials are accessible via an electronic data file (http://www.necappelatecourts.org). This information was supplemented with newspaper accounts of the trial where such coverage was available through *Lexis Nexis* or *Newsbank,* another electronic databank that includes varying years of stories from eight North Carolina newspapers.

There are 1003 cases in the dataset from trials held during the period 1979-2002. 1979 is selected as the initial year for review because it is the first year following the *Gregg* decision that death sentences tended to be sustained upon appeal in North Carolina. The year 2002 represents the latest year for which Supreme or Appeals Court decision have been issued for substantial majority of appeals filed. 908 of these cases are original trials while 95 are retrials following a vacating of either the defendant's conviction and/or death sentence.

Because there is no centralized source of information regarding capital murder trials in North Carolina, it is impossible to determine the precise number of all capital murder trials conducted during the period covered in the data. However, appeals of death sentences are automatically referred to the state Supreme Court. Also, a large proportion of defendants receiving a life sentence appeal their 1st degree murder convictions to the Court of Appeals. If the Court of Appeals decision is not in their favor, defendants may appeal to the Supreme Court, but that court has the option of declining to hear the case. Given that the substantial majority of capital cases are appealed to at least one of these

courts, we estimate that the available data contain reviews of 80-90% of all sentencing recommendations made by juries during this period. [5]

Of the 1003 case reviewed, 203 had familial victim-offender relationship information necessary for the analyses. We have identified several sources of missing data that resulted in their exclusion from the working dataset. These sources include:

- Cases that did not have a full set of materials necessary for review, specifically, a number of appeals in cases where the individual received a life sentence did not include the jury recommendation from (termed "Issues and Recommendation") among the case materials. Therefore, it was impossible to determine the specific aggravating circumstances and mitigating factors submitted for jury consideration.
- Also excluded from the analysis are trials that involved two types of situations emerging from the jury deliberations. First, the jury did not find an aggravating factor. Second, the jury found an aggravating circumstance to exist, but judged that it did not merit the death penalty. In either case, the sentencing decision defaults to life, and the deliberation concludes prior to considering mitigating evidence.
- In the early post-*Gregg* years of capital trials in North Carolina, the juries of some counties were submitted a set of mitigators and were asked if they accepted any of

[5] There are two instances were defendants are unlikely to appeal, and therefore not be included in the dataset. First, if they pled guilty and received a life sentence, there is little basis for appeal. Second, some defendants' convictions are upheld but their death sentences vacated. If, upon retrial of the penalty phase, they receive a life sentence, there is no basis for appeal. Both of these situations result in cases that are difficult to discover, especially if the trials were held in smaller rural counties without a major news outlet. A much smaller basis for some trials not included in the dataset involved those that were actually identified, but their case materials were not available because hard copies were missing from both libraries or not yet posted in electronic form

those listed. Thus, the acceptance or rejection of individual mitigators was not required, rendering these cases invalid for this analysis.

- Finally, some appeals were prepared in a manner that did not allow for coding of all variables used in the analysis. That is, descriptions of the crime were lacking in detail, or materials were excluded that were necessary to complete some codings.

Comparisons of missing cases with those remaining in the dataset revealed an overrepresentation of life sentence cases, suggesting that the reduced dataset overstates the proportion of death sentence cases. However, comparisons of major demographic and legal variables between life sentence cases included and not included in the working dataset revealed no major sources of bias in the cases used for analysis.

Data Collection Instrument

A data collection instrument was developed that contained information about the offender (sex, race, age), the victim (sex, race, age, marital status), characteristics of the offense (number of victims, date of offense, victim/offender relationship, victim involvement in illegal activity, cause of death, number of accomplices, rape, torture, kidnapping, physical evidence, bloody murder, and urban/rural county), and legal aspects of the case (sentence, type of attorney, retrial, jury decision/guilty plea, conviction upheld, sentence upheld, confession, witness testify, number of females on jury, number of Blacks on jury, aggravating circumstances accepted, aggravating circumstances submitted, mitigating circumstances submitted, and mitigating circumstances accepted) (See Appendix A.) However, for the current study only a subset of variables will be included in the analysis.

Defendant Information

Defendant's age, race, and sex were available from the North Carolina Department of Corrections website (http://www.doc.state.nc.us/offenders).

Victim Information

Through 1996, victim's age, race, and sex were taken from the commercially available CD-ROM, *North Carolina Vital Records: Deaths 1968-1996* (Ancestry View, 2000). For 1997-2002, victims' demographic information was determined from some combination of court material (such as reference to the victim in the state's or defendant's appeals briefs), newspaper accounts, or obituaries obtained through the World Wide Web search engines. Cases for which this information could not be obtained are not included in this dataset.

Sample and Variables

Of the 1003 cases within the dataset, 203 indicate a familial relationship between the victim and the offender. A cross tabulation of the dichotomous dependent variable (0 = life sentence, 1 = death sentence) within the 203 familial cases will distinguish the number of death sentences versus the number of life sentences issued. For a court case to elevate to a capital trial, the offender must be charged with a capital murder. As defined by the Uniform Crime Report, issued yearly by the FBI, murder is the willful (non-negligent) killing of a human being by another (U.S. Department of Justice, 2003). In capital trials, the defendant has either pled guilty or the state is seeking a capital sentence for such a murder. A capital sentence, also known as a death sentence, results in the defendant ultimately being sentenced to death, with the consent of the courts, for his/her crime. In the analyses of such cases, the victim-offender familial relationship is

examined to assess its impact, if any, on the likelihood of the offender receiving a death sentence.

Familial relationships encompass a broad array of relations, ranging from intimate partner to simple knowledge of other family members of the victim or offender. For this analysis, the independent variable, victim-offender relationship, was subdivided into specific familial relationships to include: (1) current, separated, or divorced spouses (heterosexual and homosexual) and current or former boyfriends and/or girlfriends (heterosexual and homosexual); (2) parent or step-parents of the offender; (3) parents in-law or parents of victim with whom the offender was involved; (4) a child or step-child of the offender; (5) child, step-child, or another child residing in the same household of the victim with whom the offender was involved; (6) any other family member of offender; and (7) any other family member of victim.

Acquaintance relationships and stranger murders were analyzed for comparison. Acquaintance relationships involve a victim and offender who: (1) were friends; (2) were roommates; or (3) knew "of" each other. The stranger classification includes those murders of victims that had no known prior relationship with the offender. As shown in Table 1, analysis revealed that familial relationships comprised 20.2% of the sample, acquaintance relationships comprised 43.8% of the sample, and stranger relationships comprised 36.0% of the sample. Despite the breakout of the victim-offender relationship, the percentages of life sentences versus death sentences were disturbed evenly across the three categories; approximately half of all cases received life sentences and half received death sentences.

Table 1

Victim-Offender Relationship vs. Defendant's Sentence (N = 1003)

Type of Relationship	Life	Death	Total	% Life	% Death	% Total
Family [1]	98	105	203	48.3%	51.7%	20.2%
Friend/Acquaintance [2]	216	223	439	49.2%	50.8%	43.8%
Stranger [3]	180	181	361	49.9 %	50.1 %	36.0%
Total	494	509	1003	49.3%	50.7%	100.0%

[1] Indicates family, current, divorced, separated spouses, in-laws, and current or former boyfriends/girlfriends

[2] Includes roommates and relationships where the Defendant and Victim knew "of" one another

[3] Indicates no prior relationship stated between Defendant and Victim

Of the familial relationships (n = 203), 48.3% (98) received life sentences, where as 51.7% (105) received death sentences. Of the acquaintance relationships (n = 439), 49.2% (216) received life and 50.8% (223) received death. Stranger relationships (n = 361) consisted of 49.9% (180) that received life sentences and 50.1% (181) that received death sentences.

Pulling from the data collected from each case via *Lexis Nexis,* the independent variable of gender (both of the victim and the offender), was measured based on the coding within the dataset (0 = male, 1 = female). To isolate the effects of the independent variables on the likelihood an offender will receive a death sentence, previous factors that have been shown to influence the outcome were controlled. Potential bias may be produced by common legal and extra legal variables. Legal variables that have been proven to influence sentencing decisions include: gender, race, the number of aggravators accepted, and the number of mitigators accepted. Previous research regarding gender disparity in sentencing has concluded that males are more likely to receive a death sentence when compared to females (Belknap, 2001; Crew, 1991a; Hedderman & Hough, 1994; Williams & Holcomb, 2004). Several studies examining race and its impact on receiving a death sentence has consistently found that Black offenders are more likely than Whites to be sentenced to death (Garfinkel, 1949; LaFree, 1980). In addition, those defendants with White victims are more likely to receive a death sentence than defendants with Black victims (Ziemba-Davis & Myers, 2002). Studies have shown that aggravating and mitigating circumstances have been important factors in sentencing decisions (Baldus et al., 1983, 1985, 1990, 2002; Moran & Butler, 2002; Paternoster & Kazyaka, 1988).

Extra legal variables that have the potential to bias this analysis are: urban homicides and those cases represented by court appointed attorneys. Homicides occurring in rural areas have a greater likelihood of receiving a death sentence than those occurring in urban areas (Bowers & Pierce, 1980). Studies have also found that cases represented by court appointed attorneys are more likely to receive harsher sentences than those with a private attorney (Beck & Shumsky, 1997; Nagel, 1969).

Method of Analysis

Logistic regression models were used to examine whether the victim-offender familial relationship and the gender (both of the offender and the victim) serve as predictors of death sentence outcomes in capital murder trials in North Carolina. Multiple regression models were employed to test the hypotheses presented. For each model, the dependant variable is coded as a dichotomous variable (0 = life sentence, 1 = death sentence). Using the full sample of cases (N = 1003), the regression model for hypothesis 1 estimated the impact of the victim-offender relationship on the likelihood that a defendant would receive a death sentence. The independent variable was coded into two dummy variables (Stranger =1, Acquaintance = 1, and Family = 0, the reference group). This analysis deciphered whether stranger murders were more likely to result in a capital sentence when compared to family murders.

A reduced sample of cases of familial homicides (n = 203) was used to test the remaining hypotheses. For hypothesis two, the impact of the offender's gender on the likelihood that he/she would receive a death sentence was tested. The independent variable (offender gender) is also a dichotomous variable (0 = male, 1 = female). For hypothesis 3, a regression model (n = 203) was used to test whether cases involving

female victims were more likely to receive a death sentence. Victim gender is coded as 0 = male, 1 = female. Because these analyses are performed on what is essentially the population of North Carolina cases in which the state sought the death penalty, inferential statistics are not applicable. However, they are reported for their heuristic value.

Chapter Three

Results

Descriptive Statistics

The purpose of the analysis was to find whether, net of other factors salient to capital punishment sentencing outcomes, (1) family murders were less likely to result in a capital sentence than murders committed by strangers or acquaintances, (2) whether among family murders, male offenders were more likely to receive a death sentence when compared to female offenders, and (3) whether among family murders, those who kill females were more likely to receive a death sentence than those who kill male family members. The author did not find support for hypothesis 1; within North Carolina, family murders were not less likely to receive capital sentences than were murders committed by strangers or acquaintances. However, the author did find support for hypotheses 2 and 3. Among family murders occurring after the *McKoy* decision (which ruled that juror unanimity was no longer required before a jury could weigh a mitigating circumstance against any aggravating circumstance accepted), male offenders were more likely than female offenders to receive a capital sentence and those who killed females were more likely to receive a death sentence than those who killed male family members, although these findings did not prove to be statistically significant.

For the general model (N = 1003), the descriptive statistics presented in Table 2, show that the type of sentence imposed is fairly evenly distributed between death outcomes and life outcomes (50.7% and 49.3% respectively). The relationship between

the victim and the offender is indicated as familial (20.2%), acquaintance (43.8%), and stranger (36.0%). The majority of victims are male (57.4%) and the majority of offenders are male (96.3%). However, defendants with female victims (56.9%) were more likely to receive a death sentence than defendants with male victims (46.2%). The majority of cases with female offenders are sentenced to life (64.9%) compared to male offenders, where the majority is sentenced to death (51.3%). Black offenders (51.7%), offenders tried in rural environments (53.4%), and offenders represented by a public attorney (92.7%) represent the majority of defendants within this analysis.

Table 2
Variables used in Analyses

	Total			*Familial*			*Non-Familial*		
	(N = 1003)			*(n = 203)*			*(n = 800)*		
Variables	*N*	*% Total*	*% Death*	*N*	*% Total*	*% Death*	*N*	*% Total*	*% Death*
Sentence									
Life	494	49.3	-	98	48.3	-	396	49.5	-
Death	509	50.7	-	105	51.7	-	404	50.5	-
Relationship									
Familial	203	20.2	51.7	203	100.0	51.7	-	-	-
Acquaintance	439	43.8	50.8	-	-	-	439	54.9	50.8
Stranger	361	36.0	50.1	-	-	-	361	45.1	50.1
Victim Gender									
Female	427	42.6	56.9	149	73.4	51.7	278	34.8	59.7
Male	576	57.4	46.2	54	26.6	51.9	522	65.3	45.6
Offender Gender									
Female	37	3.7	35.1	19	9.4	42.1	18	2.3	27.8
Male	966	96.3	51.3	184	90.6	52.7	782	97.8	51.0
Victim Race									
White	641	63.9	53.5	115	56.7	53.0	526	65.8	53.6
Black	315	31.4	47.3	81	39.9	50.6	234	29.3	46.1
Other	47	4.7	36.2	7	3.4	42.9	40	5.0	35.0
Offender Race									
White	428	42.7	52.3	106	52.2	51.9	322	40.3	52.5
Black	519	51.7	49.5	88	43.3	51.1	431	53.9	49.2
Other	56	5.6	50.0	9	4.4	55.6	47	5.9	48.9
Urban									
Urban	467	46.6	47.5	86	42.4	44.2	381	47.6	48.3
Rural	536	53.4	53.5	117	57.6	57.3	419	52.4	52.5
Attorney									
Private	67	6.7	31.3	16	7.9	50.0	51	6.4	25.5
Public	930	92.7	52.2	187	92.1	51.9	743	92.9	52.2
Aggravators Accepted									
Mean		1.98			1.55			2.09	
Std Dev.		1.191			0.964			1.220	
Mitigators Accepted[1]									
Mean		11.44			11.26			11.49	
Std Dev.		10.632			8.103			11.194	

[1] Mitigators Accepted for post *McKoy* cases only

For the reduced model of familial cases (n = 203), the type of sentence remains fairly evenly distributed between death outcomes and life outcomes (51.7% and 48.3% respectively). It is important to note that within the general model, the majority of victims are males (57.4%) and the majority of offenders are also males (96.3%). However, a dramatic increase in female victims is present in the reduced familial model; the overwhelming majority of victims are females (73.4%) and the majority of offenders remain male (90.6%). Defendants with female victims (51.7%) were no more likely to receive a death sentence than defendants with male victims (51.9%). The majority of cases with female offenders are sentenced to life (57.9%) compared to male offenders where the majority is sentenced to death (52.7%). White offenders (52.2%), offenders tried in rural environments (57.6%), and offenders represented by a public attorney (92.1%) represent the majority of defendants within this analysis.

For the reduced model of non-familial cases (n = 800), the type of sentence remains fairly evenly distributed between death outcomes and life outcomes (49.5% and 50.5% respectively). It is important to note that within the familial model, the majority of victims are females (73.4%) whereas the majority of offenders are males (90.6%). However, a dramatic decrease in female victims is present in the reduced non-familial model; the overwhelming majority of victims are males (65.3%) and the majority of offenders remain male (97.8%). Defendants with female victims (59.7%) were more likely to receive a death sentence than defendants with male victims (45.6%). The majority of cases with female offenders were sentenced to life (72.2%) compared to male offenders where the majority is sentenced to death (51.0%). White offenders (53.6%),

offenders tried in rural environments (52.5%), and offenders represented by a public attorney (92.9%) represent the majority of defendants within this analysis.

For all analyses, minimal variation is present concerning the number of aggravators and mitigators accepted. For the general model, the mean number of aggravators accepted was 1.98, with a standard deviation of 1.19. For the reduced familial model, the mean number of aggravators accepted was 1.55 with a standard deviation of .96. For the reduced non-familial model, the mean number of aggravators accepted was 2.09 with a standard deviation of 1.22. For the general model, the mean number of mitigators accepted was 11.44, with a standard deviation of 10.63. Similarly for the reduced familial model, the mean number of mitigators accepted was 11.26 with a standard deviation of 8.10. The reduced non-familial model resulted in the mean number of mitigators accepted as 11.49 with a standard deviation of 11.19.

Logistic Regression

Table 3 reports the effects of victim-offender familial relationships on capital sentencing outcomes within a bivariate model as well as a multivariate model. In the bivariate model, legal and extralegal factors were not controlled, and thus the model did not prove to be statistically significant ($? ^2 = .131$ and Nagelkerke $R^2 = .000$). However, 'stranger relationships' and 'acquaintance relationships' were less likely than familial relationships to receive a capital outcome (b = -.063, $p = .718$ and b = -.037, $p = .827$ respectively). This analysis suggests that the odds of receiving a capital outcome for cases involving strangers is 6.1% lower when compared to cases involving familial relationships. Likewise, the odds of receiving a capital outcome for cases involving

acquaintance relationships is 3.6% lower when compared to cases involving familial relationships.

Table 3

Logistic Regression: The Effects of Victim-Offender Familial Relationships on Capital Sentencing Outcomes in North Carolina between 1979-2002

	Bivariate Model (N = 1003)				*Multivariate Model (n = 968)*			
Variables	*b*	*SE*	*Exp (B)*	*p*	*b*	*SE*	*Exp (B)*	*p*
Relationship								
Acquaintance	-.037	.170	.964	.827	-.272	.204	.762	.183
Stranger	-.063	.176	.939	.718	-.487	.219	.615	.026
Victim Gender								
Female					.252	.155	1.287	.104
Offender Gender								
Female					-.747	.384	.474	.052
Victim Race								
Black					-.185	.187	.831	.324
Other					-.890	.371	.411	.016
Offender Race								
Black					-.272	.175	.762	.120
Other					-.014	.344	.986	.967
Urban/Rural								
Urban					-.273	.145	.761	.060
Type of Attorney								
Private					-.626	.308	.535	.042
# of Aggravators Accepted					.833	.078	2.300	.000
Constant	.069	.140	1.071	.623	-.894	.240	.409	.000
X^2			.131				188.283	
Nagelkerke R^2			.000				.236	

In the multivariate model, several legal and extralegal variables that have been shown to influence the likelihood of receiving a capital outcome were introduced as control variables. Such variables included victim and offender gender, victim and offender race, the number of aggravators accepted, urban homicides, and those cases represented by court appointed attorneys. The revised analysis improved dramatically; the overall multivariate model was statistically significant ($? ^2 = 188.283$) and the Nagelkerke R^2 (corrected R^2) increased to .236.

For the multivariate model, the victim-offender relationship findings were consistent. 'Stranger relationships' and 'acquaintance relationships' were less likely than familial relationships to receive a capital outcome (b = -.487, p = .026 and b = -.272, p = .183, respectively). This analysis suggests that the odds of receiving a capital outcome for cases involving strangers is 38.5% lower when compared to cases involving victim-offender familial relationships. Likewise, the odds of receiving a capital outcome for cases involving an acquaintance relationship, is 23.8% lower when compared to cases involving familial relationships.

Several of the control variables were shown to influence the likelihood of receiving a capital outcome. Cases involving female victims were more likely to receive a death sentence when compared to cases involving male victims (b = .252, p = .104); the odds of receiving a death sentence for an offender whose victim was female is about 1.3 times more likely than an offender whose victim was male. Consistent with previous findings, female offenders were less likely to receive a death sentence when compared to male offenders (b = -.747, p = .052); the odds of a female offender receiving a death sentence is 52.6% lower than that of male offenders. Additionally, the analysis revealed

that cases involving Black victims and Other victims (i.e. non-White and non-Black victims) were less likely to receive a death sentence when compared to cases involving White victims (b = -.185, *p* = .324 and b = -.890, *p* = .016, respectively). The odds of cases involving Black victims were 16.9% less likely to result in a death sentence when compared to cases involving White victims. Likewise, the odds of a case involving Other victims was 58.9% less likely to result in a death sentence when compared to cases involving White victims.

In relation to the race of the offender, the analysis revealed that cases involving Black offenders and Other offenders were also less likely to result in a death sentence when compared to cases involving White offenders (b = -.272, *p* = .120 and b = -.014, *p* = .967 respectively). The odds of receiving a death sentence for Black offenders was 23.8% lower when compared to cases involving White offenders, and the odds of Other offenders receiving a death sentence was 1.4% less likely to result in a death sentence when compared to cases involving White offenders. Furthermore, this model revealed that the odds of an offender receiving a death sentence is 2.3 times more likely with each additional aggravating circumstance accepted.

The odds receiving a death sentence is 46.5% lower for those defendants who are represented by a private attorney as opposed to a public defender or a court appointed attorney. Additionally, trials being held in urban settings are less likely than cases tried in non-urban environments (i.e. rural environments) to result in a death sentence (b = -.273, *p* = .060). The odds of urban cases resulting in death sentences is 23.9% less likely when compared to rural cases.

Table 4 reports the findings of the effects of victim-offender familial relationships on capital sentencing outcomes within a bivariate model as well as a multivariate model for cases occurring after the *McKoy* decision. In the bivariate model, legal and extralegal factors were not controlled, and thus the model did not prove to be statistically significant (? ^{2} = 1.540 and Nagelkerke R^2 = .003). However, 'stranger relationships' and 'acquaintance relationships' remained less likely than familial relationships to receive a capital outcome (b = -.274, *p* = .218 and b = -.154, *p* = .472, respectively). This analysis suggests that the odds of receiving a capital outcome for cases involving strangers is 24.0% lower when compared to cases involving familial relationships. Likewise, the odds of receiving a capital outcome for cases involving an acquaintance relationship is 14.3% lower when compared to cases involving familial relationships.

Table 4

Logistic Regression: The Effects of Victim-Offender Familial Relationships on Capital Sentencing Outcomes in North Carolina after McKoy decision

	Bivariate Model (n = 634)				*Multivariate Model (n = 587)*			
Variables	*b*	*SE*	*Exp (B)*	*p*	*b*	*SE*	*Exp (B)*	*p*
Relationship								
Acquaintance	-.154	.214	.857	.472	-.478	.285	.620	.093
Stranger	-.274	.222	.760	.218	-.828	.307	.437	.007
Victim Gender								
Female					.431	.214	1.539	.044
Offender Gender								
Female					-.603	.502	.547	.230
Victim Race								
Black					.038	.256	1.038	.883
Other					-1.385	.457	.250	.002
Offender Race								
Black					-.597	.251	.551	.018
Other					.268	.510	1.308	.599
Urban/Rural								
Urban					-.260	.204	.771	.201
Type of Attorney								
Private					-1.088	.528	.337	.039
# of Aggravators Accepted					.961	.113	2.615	.000
# of Mitigators Accepted					-.090	.012	.914	.000
Constant	.355	.177	1.426	.046	.242	.360	1.274	.502
X^2	1.540				186.834			
Nagelkerke R^2	.003				.367			

In the multivariate model, several legal and extralegal variables that have been shown to influence the likelihood of receiving a capital outcome were introduced as control variables. Such variables included victim and offender gender, victim and offender race, the number of aggravators accepted, the number of mitigators accepted, urban homicides, and those cases represented by court appointed attorneys. The revised analysis improved dramatically; the overall multivariate model was statistically significant (? ^{2} = 186.834) and the Nagelkerke R^2 (corrected R^2) increased to .367.

For the multivariate model, the victim-offender relationship findings were consistent. 'Stranger relationships' and 'acquaintance relationships' were less likely than familial relationships to receive a capital outcome (b = -.828, *p* = .007 and b = -.478, *p* = .093, respectively). This analysis suggests that the odds of receiving a capital outcome for cases involving strangers is 56.3% lower when compared to cases involving familial relationships. Likewise, the odds of receiving a capital outcome for cases involving an acquaintance relationship is 38.0% lower when compared to cases involving familial relationships.

Several of the control variables were shown to influence the likelihood of receiving a capital outcome. Cases involving female victims were more likely to receive a death sentence when compared to cases involving male victims (b = .431, *p* = .044); the odds of receiving a death sentence for an offender whose victim was female is 1.539 times more likely than an offender whose victim was male. Consistent with previous findings, female offenders were less likely to receive a death sentence when compared to male offenders (b = -.603, *p* = .230); the odds of a female offender receiving a death sentence is 45.3% lower than that of male offenders.

Additionally, the analysis revealed that cases involving Black victims were more likely to receive a death sentence when compared to cases involving White victims (b = .038, *p* = .883). The odds of cases involving Black victims were 1.038 time more likely to result in a death sentence when compared to cases involving White victims. However, the analysis revealed that cases involving Other victims (i.e. non-White and non-Black) were less likely to result in a death sentence when compared to cases involving White victims (b = -1.385, *p* = .002). The odds of cases involving Other victims were 75.0% less likely to result in a death sentence when compared to cases involving White victims.

In relation to the race of the offender, the analysis revealed that cases involving Black offenders were less likely to result in a death sentence when compared to cases involving White offenders (b = -.597, *p* = .018). The odds of receiving a death sentence for Black offenders was 44.9% lower when compared to cases involving White offenders. However, cases involving Other offenders were more likely to result in a death sentence when compared to cases involving White offenders (b = .268, *p* = .599); the odds of Other offenders receiving a death sentence were 1.308 time more likely to result in a death sentence when compared to cases involving White offenders. Furthermore, this model revealed that the number of aggravating and mitigating factors accepted have a significant impact on the likelihood of receiving a death sentence. The odds of an offender receiving a death sentence is 2.6 times more likely with each additional aggravating circumstance accepted. The odds of an offender receiving a death sentence is 8.6% less likely with each additional mitigating circumstance accepted.

The odds receiving a death sentence is 66.3% lower for those defendants who are represented by a private attorney as opposed to a public defender or court appointed

attorney. Additionally, trials being held in urban settings are less likely than cases tried in non-urban environments (i.e. rural environments) to result in a death sentence (b = -.260, *p* = .201). The odds of urban cases resulting in death sentences is 22.9% less likely when compared to rural cases.

Table 5 reports the effects of gender within victim-offender familial cases on capital sentencing outcomes within a bivariate model as well as a multivariate model. In the bivariate model, legal and extralegal factors were not controlled, and thus the model did not prove to be statistically significant (? ^{2} = 1.008 and Nagelkerke R^2 = .007). Cases involving female offenders were less likely to result in a capital outcomes when compared to cases involving male offenders (b = -.547, *p* = .319). The odds of cases with female offenders receiving death sentences was 42.1% less likely when compared to cases involving male offenders. However, cases involving female victims were less likely to result in a capital outcome when compared to cases involving male victims (b = -.172, *p* = .633). The odds of receiving a capital outcome in cases involving female victims was 15.8% less likely to result in a capital outcome when compared to cases involving male victims.

Table 5

Logistic Regression: The Effects of Gender within Victim-Offender Familial Cases on Capital Sentencing Outcomes in North Carolina, 1979-2002

	Bivariate Model (n = 203)				*Multivariate Model (n = 201)*			
Variables	*b*	*SE*	*Exp (B)*	*p*	*b*	*SE*	*Exp (B)*	*p*
Victim Gender								
Female	-.172	.360	.842	.633	-.266	.409	.767	.516
Offender Gender								
Female	-.547	.549	.579	.319	-.591	.592	.554	.318
Victim Race								
Black					-.325	.746	.723	.663
Other					-1.817	1.348	.163	.178
Offender Race								
Black					.274	.755	1.315	.716
Other					.666	1.245	1.947	.593
Urban/Rural								
Urban					-.554	.313	.575	.077
Type of Attorney								
Private					.152	.585	1.165	.794
# of Aggravators Accepted					.821	.196	2.274	.000
Constant	.246	.324	1.279	.447	-.620	.483	.538	.200
X^2		1.008				29.017		
Nagelkerke R^2		.007				.179		

In the multivariate model, several legal and extralegal variables that have been shown to influence the likelihood of receiving a capital outcome were introduced as control variables. Such variables included victim and offender gender, victim and offender race, the number of aggravators accepted, urban homicides, and those cases represented by court appointed attorneys. The revised analysis improved; the overall multivariate model was statistically significant (? ^{2} = 29.017) and the Nagelkerke R^2 (corrected R^2) increased to .179.

For the multivariate model, the effects of gender on the likelihood of receiving a capital outcome were consistent. Female offenders were less likely than male offenders to receive a capital outcome (b = -.591, *p* = .318). The odds of a female offender receiving a capital outcome was 44.6% less likely when compared to a male offender. However, cases involving female victims were less likely to result in a capital outcome when compared to cases involving male victims (b = -.266, *p* = .516); the odds of a case involving a female victim receiving a death sentence was 23.3% less likely to result in a capital outcome. Additionally, the analysis revealed that cases involving Black victims and Other victims (i.e. non-White and non-Black victims) were less likely to receive a death sentence when compared to cases involving White victims (b = -.325, *p* = .663 and b = -1.817, *p* = .178, respectively). The odds of cases involving Black victims were 27.7% less likely to result in a death sentence when compared to cases involving White victims. Likewise, the odds of a case involving Other victims was 83.7% less likely to result in a death sentence when compared to cases involving White victims.

Regarding the race of the offender, the analysis revealed that cases involving Black offenders and Other offenders were more likely to result in a death sentence when

compared to cases involving White offenders (b = .274, *p* = .716 and b = .666, *p* = .593, respectively). The odds of receiving a death sentence for Black offenders was about 1.3 times more likely when compared to cases involving White offenders, and the odds of Other offenders receiving a death sentence was about 1.9 times more likely to result in a death sentence when compared to cases involving White offenders. Furthermore, this model revealed that the odds of an offender receiving a death sentence is about 2.3 times more likely with each additional aggravating circumstance accepted.

The odds receiving a death sentence is about 1.2 times more likely for those defendants who are represented by a private attorney as opposed to a public defender or court appointed attorney. Additionally, trials being held in urban settings are less likely than cases tried in non-urban environments (i.e. rural environments) to result in a death sentence (b = -.554, *p* = .077). The odds of urban cases resulting in death sentences is 42.5% less likely when compared to rural cases.

Table 6 reports the effects of gender within victim-offender familial cases on capital sentencing outcomes within a bivariate model as well as a multivariate model for cases occurring after the *McKoy* decision. In the bivariate model, legal and extralegal factors were not controlled, and thus the model did not prove to be statistically significant (? ^{2} = .170 and Nagelkerke R^2 = .002). Cases involving female offenders were less likely to result in a capital outcomes when compared to cases involving male offenders (b = -.252, *p* = .741). The odds of cases with female offenders receiving death sentences was 22.3% less likely when compared to cases involving male offenders. However, cases involving female victims were less likely to result in a capital outcome when compared to cases involving male victims (b = -.161, *p* = .721). The odds of receiving a capital

outcome in cases involving female victims was 14.9% less likely to result in a capital outcome when compared to cases involving male victims.

Table 6

Logistic Regression: The Effects of Gender within Victim-Offender Familial Cases on Capital Sentencing Outcomes in North Carolina after McKoy decision

	Bivariate Model (n = 131)				*Multivariate Model (n = 120)*			
Variables	*b*	*SE*	*Exp (B)*	*p*	*b*	*SE*	*Exp (B)*	*p*
Victim Gender								
Female	-.161	.450	.851	.721	.605	.637	1.832	.342
Offender Gender								
Female	-.252	.762	.777	.741	-.116	1.065	.890	.913
Victim Race								
Non-White					.362	1.216	1.437	.766
Offender Race								
Non-White					-.248	1.217	.780	.839
Urban/Rural								
Urban					-.856	.487	.425	.079
Type of Attorney								
Private					-.081	1.013	.936	.922
# of Aggravators Accepted					.772	.286	2.163	.007
# of Mitigators Accepted					-.165	.037	.848	.000
Constant	.493	.405	1.637	.223	1.116	.881	3.053	.205
X^2	.170				40.180			
Nagelkerke R^2	.002				.390			

In the multivariate model, several legal and extralegal variables that have been shown to influence the likelihood of receiving a capital outcome were introduced as control variables. Such variables included victim and offender gender, victim and offender race, the number of aggravators accepted, the number of mitigators accepted, urban homicides, and those cases represented by court appointed attorneys. The revised analysis improved dramatically; the overall multivariate model was statistically significant (? ^{2} = 40.180) and the Nagelkerke R^2 (corrected R^2) increased to .390.

For the multivariate model, the effects of gender on the likelihood of receiving a capital outcome provided different results compared to the bivariate model. Female offenders remained less likely than male offenders to receive a capital outcome (b = -.116, *p* = .913). However, the odds of a female offender receiving a capital outcome significantly decreased as the analysis revealed females were only 8.7% less likely to result in a capital outcome when compared to male offenders. Also differing from the bivariate model, cases involving female victims were more likely to result in a capital outcome when compared to cases involving male victims (b = .605, *p* = .342); the odds of a case involving a female victim receiving a death sentence was about 1.8 times more likely to result in a capital outcome. Furthermore, the analysis revealed that cases involving non-White victims were more likely to result in a capital outcome when compared to cases involving White victims (b = .362, *p* = .766). The odds of cases involving non-White victims were about 1.4 times more likely to result in a death sentence.

In relation to the race of the offender, the analysis revealed that cases involving non-White offenders were less likely to result in a death sentence when compared to

cases involving White offenders (b = -.248, *p* = .839). The odds of receiving a death sentence for non-White offenders was 22.0% lower when compared to cases involving White offenders. Furthermore, this model revealed that the number of aggravating and mitigating factors accepted have a significant impact on the likelihood of receiving a death sentence. The odds of an offender receiving a death sentence is about 2.2 times more likely with each additional aggravating circumstance accepted. The odds of an offender receiving a death sentence is about 15.2% less likely with each additional mitigating circumstance accepted.

The odds receiving a death sentence is 6.4% lower for those defendants who are represented by a private attorney as opposed to a public defender or court appointed attorney. Additionally, trials being held in urban settings are less likely than cases tried in non-urban environments (i.e. rural environments) to result in a death sentence (b = -.856, *p* = .079). The odds of urban cases resulting in death sentences are 57.5% less likely when compared to rural cases.

Chapter Four

Discussion and Conclusion

Discussion

The purpose of this study was to examine (1) whether or not the type of victim-offender relationship (i.e. family, acquaintance, or stranger) impacts the likelihood of an offender receiving a death sentence; and (2) whether there are variations in the effects of these correlates across gender. As previously stated, an immense amount of research has proposed that violence perpetrated against victims known to the offender, especially those that are intimate or related by blood or marriage, commonly receive lighter criminal sanctions where as violence perpetrated amongst strangers elicit more severe sanctions (Albonetti, 1987; Bernstein, Kelly & Doyle, 1977; Dawson, 2004; Lundsgaarde, 1977; Myers, 1980; Peterson & Bailey, 1991; Radelet & Pierce, 1985; Spohn & Spears, 1996; Vera Institute, 1977; Williams, 1976;). In following these assumptions, the current study restricted the analyses to death-eligible cases from 1979 through 2002 in North Carolina.

The initial bivariate regression model suggested no significant effects for acquaintance or stranger relationships in comparison to familial relationships between offenders and their victims. However, once legal and extralegal factors were controlled, the analysis revealed stunning results. Contrary to the common expectation that familial homicides receive death sentences at a disproportionately lower rate when compared to other types of victim-offender dyads, stranger relationships were significantly less likely to receive a death sentence when compared to familial relationships. In fact, the analysis

revealed that familial relationships were almost twice as likely as stranger relationships to receive a death sentence. Such a finding may be due, in part, to the Women's movement of the 1970's. The movement brought to the forefront the prevalence of violence between intimates and elevated the issue to a primary social concern. With increased attention, and prevention/intervention programs, the epidemic was soon carried into the courts due to the increased awareness amongst law enforcement responding to domestic violence cases and violence reported among intimates. In a study conducted by Dawson (2004), offenders accused of killing intimates appeared to receive lighter sentences only for the time period of 1974 through 1984. However, offenders accused of killing intimates during the time period of 1985 through 1996, did not appear to be treated any differently than cases involving those who shared more distant relationships. Suffice it to say, the criminal justice system as a whole, may not be granting leniency as often to cases between intimates and within families, as a direct result of the attention concerning intimate violence.

Additionally, violence between non-strangers is deemed expressive in nature (i.e. arising from a release of fear, anger, or rage). According to Decker (1993), the classic example of an expressive homicide is the slaying of a spouse or lover. With such emotions, an offender inflicting physical harm to his/her known victim, may inflict injuries that are deemed more heinous in nature; instead of one injury that would cause death, multiple injuries may be inflicted as an outburst of emotional rage (i.e. multiple wounds to multiple parts of the victim's body).

As proposed by Dawson (2004), "if the courts do treat intimate partner homicides differently than other types of homicide, it is important to determine whether the

differences in treatment stem from the nature of the relationship itself or the distinct characteristics of that type of homicide" (p. 33). It is possible that murders of family members may exhibit greater numbers of aggravating circumstances that would warrant a capital sentence. Previous research regarding aggravating circumstances have found supportive evidence that the greater number of aggravating circumstances accepted by a jury, the greater the likelihood the defendant will receive a death sentence (Baldus et al., 1983, 1985, 1990, 2002; Paternoster & Kazyaka, 1988). Furthermore, aggravators such as "heinous, atrocious, and cruel (HAC)" and "cold, calculated, and premeditated" are heavily weighed, thus warranting a death sentence as stand alone aggravators (Acker, Bohm, & Lanier, 2003). Analyses of these factors found that higher endorsements of the aggravator, "crime especially heinous, atrocious, and cruel", indicated a greater likelihood of sentencing the defendant to death (Moran & Butler, 2002). Further evidence of this notion is supported by the current analysis. As expected, this analysis revealed that, as the number of aggravating circumstances accepted increased, the more likely the defendant was to receive a death sentence. In addition, this analysis found supportive evidence pertaining to the common notion that the more mitigating circumstances accepted by the jury, the likelihood of the defendant receiving a death sentence is reduced.

In assessing the impact of gender, both of the victim and the offender, this analysis revealed no significant findings as to its impact on the likelihood of receiving a death sentence. Despite a vast amount of literature on intimate and familial homicides proposing that males are more likely to receive a death sentence when compared to females, especially in cases involving female victims, this analysis does not reveal

supportive findings of such a statement. Studies have produced inconsistent findings in regards to females who commit crimes that are deemed masculine, or that violate the typical gender norms of femininity on the basis of the "evil woman" hypothesis (Johnson & Scheuble, 1991; Nagel & Hagan, 1983). Such studies have concluded that sentencing outcomes for females behaving in criminal, masculine ways, or commit crimes that are deemed to be masculine in nature are not treated with leniency. In fact, at times females are treated more severely when compared to males who commit comparable crimes due to the violation of the traditional female gender role. The current analysis does not find supportive evidence of either the leniency hypothesis or the evil woman hypothesis as proposed by previous research. In fact, within familial homicides in this analysis, the only predictors having a significant impact on the imposition of a death sentence, again stems from the number of aggravating and mitigating circumstances accepted; the greater number of aggravators accepted, the more likely a defendant is to receive a death sentence, and the greater number of mitigators accepted, the less likely a defendants is to receive a death sentence. Additionally, those defendants who retained a private attorney faired better than those who represented by public defender or court appointed attorney. The analysis revealed cases involving private attorneys were significantly less likely to receive a death sentence when compared to cases involving public attorneys.

These findings suggest that neither stranger nor acquaintance relationships between the victim and offender receive death sentences at a higher rate than familial cases in capital trials in North Carolina. From these results it appears that there are legal factors (the number of aggravating and mitigating circumstances accepted, and the type

of attorney representing the accused) that influence the likelihood of receiving a capital outcome.

Limitations

Although this analysis controlled for legal and extra-legal variables (gender, race, the number of aggravators accepted, the number of mitigators accepted, urban/rural areas, and the type of appointed attorney) additional unobserved legal and extra-legal factors may partially explain the findings. Omitting potentially relevant variables such as the offender gender-race combination, the amount of weight given to each aggravating and mitigating factor, and the composition of the jury may preclude the analysis, resulting in biasness of the estimated coefficients within the models. Consequently, including irrelevant variables may increase the variances of estimated coefficients, increasing the absolute value of the t-scores, and possibly reduce the precision of regression. Another limitation may stem from the missing cases omitted from the analysis, leaving an overrepresentation of death cases versus life cases.

Furthermore, for the purpose of this analysis, the term 'familial relationship' included intimate partners as well as other types of familial relationships stemming from parents, children, and other family members. Such a broad definition as this may preclude the examination of potentially important findings between distinct familial lines. In addition, the role of the relationship state may play an important role in criminal justice sentencing. As proposed by Dawson (2003), "the amount of law present in the lives of intimate partners increases or decreases in tandem with changes in their relationship; the severing of an intimate partner relationship appears to coincide with an increase in the presence of law in cases of interpersonal violence" (p. 703).

Finally, feminist researchers had a profound effect on the criminal law as it impacted violence among intimates beginning during the 1970's and taking root during the 1980's. This analysis includes cases brought to trial during the late 1970' and the early 1980's that may not have benefited from the impact of changing legislation concerning intimate violence. For future analyses, separate models may need to be conducted to assess the impact of the type of victim-offender relationship on the likelihood of receiving a capital outcome.

Future Research

Additional research needs to be conducted on the effects of victim-offender relationships on the likelihood of receiving a capital outcome. Contrary to common accepted social beliefs, cases involving strangers and/or acquaintances do not yield greater number of death sentences when compared to familial cases. This does not however, indicate that cases between intimates are more severely punishment, as this is only indicative of capital trials in North Carolina for the years 1979 through 2002. In part due to the women's right movement of the 1970's, many cases of violence within families has been brought to the forefront of the criminal justice system. Future analyses that examines the effect of victim-offender familial relationships on the likelihood of receiving a capital outcome may need to examine (1) familial relationships of distinct categories based upon types of familial relationships (i.e. parricide, infanticide, filicide, fratricide, and siblicide); (2) incorporate separate models accounting for the time frame in which the case was sent to trial (prior to zero-tolerance domestic violence laws and post zero-tolerance laws relating to intimate partner violence); and (3) the state of the relationship between intimate partners (i.e. current, separated, divorced, estranged).

Continued research is also needed to investigate whether the effects of gender within victim-offender familial cases impact the likelihood of receiving a capital sentence. Cases involving the murder of children by their parents, and more so, by their mothers, violate traditional gender roles and norms within our society. Baumer, Messner and Felson (2002) state "the killing of a young person may be perceived as more harmful than the killing of an older person because more years of life are lost, implying more severe punishments for defendants who victimize young persons" (p. 285). Further research may include analyses examining homicides of children by (1) their mothers, and (2) by other female family members.

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Appendices

Appendix A: North Carolina Capital Sentencing Project Coding Sheet

County*:_____ CRS #:_____ NCSC Ref#:_____

(*Write a note above if this is a change of *venue* from the county where the charges were filed)

Defendant (D) Information [If more than one D shown in the title of the NCSC decision, complete a separate sheet for each]

D Name [Last name, First, Middle]

D Sex: 0 = Male 1 = Female

D Race: 1 = White 2 = Black 3 = Other (Specify):_____

D Age (date of birth if available; ex = 05/22/75):_____

Was D in the military at time of the offense? 0 = No 1 = Yes

Judgment Date:_____

Victim (V) Information

Defendants sometimes are tried for the murder of more than one person. ***Be careful****: juries have to return separate verdicts for each victim; thus, they may reach different verdicts for separate killings (e.g., they might find one murder as first degree, the other as second degree; or, they may recommend sentences of death for one, life for the other). Thus, a new form must be filled out for each case where the death penalty for the murder of a victim (e.g., two victims, the death penalty sought for each = two forms).*

V Name: [Last name, First, Middle]: _____

V Sex: 0 = Male 1 = Female

V Race: 1 = White 2 = Black 3 = Other (Specify):_____

V Age: _____

V's Marital Status: 1 = Never Married 2 = Divorced 3 = Widowed 4 = Married

Total Number of victims who were murdered: _____

In some cases, multiple victimization occurred, but the death penalty was not sought of the murder of all victims. Or, one victim was murdered and the death penalty requested; in the same accident, other victims were injured but did not die. For any of these types of cases, record the information below. Put "0" if there were no victims of these natures. REMEMBER: IF THE DEATH PENALTY IS SOUGHT FOR MULTIPLE VICTIMS, COMPLETE A SEPARATE FORM FOR EACH VICTIM (e.g., if a defendant was convicted of two counts of 1st degree murder, you would fill out two forms, tailoring the information to each victim).

Number of murdered victims for whom death penalty was sought: _____

Number of non-fatal victims (injured, but not murdered): _____

Characteristics of the Offense

[Information should be specific to the victim listed above]

Date of Offense (ex = 12/25/90): _____

Victim/Offender Relationship:

1 = Family, including ex-spouses and in-laws; also, boyfriend/girlfriend, current or former (i.e., domestic situation)

2 = Acquaintance/Friend (includes roommate)

3 = Casual Acquaintance (D and V knew "of" one another)

4 = Stranger (no prior relationship stated)

Was the Victim mentioned as involved in an illegal activity of some sort (e.g., drug use, prostitution)?

0 = No 1 = Yes

Cause of Death:

1 = Shot 2 = Stabbed 3 = Bludgeoned (blunt instrument)

4 = Strangled/Asphyxiated 5 = Other (Describe): _____

If shot, stabbed, or bludgeoned, were multiple wounds inflicted? _____

(If yes, how many?): _____

0 = No 1 = Yes 8 = Death not by one of these means

If shot, type of firearm:

1 = Handgun* 2 = Rifle 3 = Shotgun 4 = Not Specified

8 = Victim not shot

(*What caliber?_____)

Number of Accomplices:_____ (1)_____

Total Number of Ds on Trial: _____ (if multiple, list other Ds) → (2)_____

(3)_____

If there were accomplices, was defendant the accused "triggerman" (or one of the triggermen)?

1 = No 2 = Yes 3 = Uncertain; Disputed at Trial

8 = No accomplices

Did offense description mention rape, or sexual assault?

0 = No 1 = Yes

Did offense description mention torture (physical or psychological)?

0 = No 1 = Yes

Did offense description mention kidnapping?

0 = No 1 = Yes

Was the offense described as a bloody murder or an unusually repulsive murder?

0 = No 1 = Yes

Was there any physical evidence to link the defendant to the crime?

(Physical evidence would include such items as blood samples, fingerprints, weapon, ballistics, hair samples, semen matches, etc.)

0 = No 1 = Yes

If yes, what?:_____

Legal Aspects of the Case

Sentence: 0 = Life 1 = Death

Type of Attorney Representing D:

0 = Assigned, appointed, or public defender

1 = Retained (hired by defendant) OR represented self

Was this a retrial?

0 = No 1 = Yes (if yes, resentence date:_____)

Conviction resulted from:

0 = Guilty Plea 1= Jury Decision

Did the jury deadlock at sentencing (*hung jury)?

0 = No 1 = Yes

Was the defendant's **conviction** upheld on appeal to the state supreme or appeals court?

0 = No 1 = Yes

7 = No Appeal 8 = Unknown (including appeal not yet ruled on)

Was the defendant's **sentence** upheld on appeal to the state supreme or appeals court?

0 = No 1 = Yes

7 = No Appeal 8 = Unknown (including appeal not yet ruled on)

Did D confess to crime or engaging in the act that caused death, even if denied later or claimed to be coerced)? This may be a formal confession, or D told someone else who testified to this at trial.

0 = No 1 = Yes

7 = D Plead guilty; no guilt phase of trail 8 = unclear

Other than giving a statement or confessing, did D cooperate with authorities (e.g., helping to recover body, surrendering to police, voluntarily turning over evidence, testifying against other Ds)?

0 = No 1 = Yes

Was there testimony at trial from persons who actually witnessed the murder (include testimony of accomplices)?

0 = No 1 = Yes 8 = D plead guilty; no guilt phase of trial

Number of **females on jury** (out of 12; do not count alternates unless they replaced a selected juror during trial; count should reflect those who issued the sentence decision; note where the information was obtained – court documents, Supreme Court decision, newspaper, interview, etc.):_____

Number of **blacks on jury** (out of 12, same procedure as for number of females):_____

Aggravating Circumstances Accepted by Jury

1 = Not submitted 2 = Submitted but not accepted

3 = Accepted 9 = Missing/Not found

Murder was committed in the course of a robbery, rape, burglary, kidnapping, or other felony crime.

1 2 3 {Circle the one (or ones) specified by the prosecution}

[**Note**: Sometimes, this circumstance is submitted multiple times by using separate offenses as aggravators. In the count below (p. 4), treat each circumstance as a unique submission. For example, "during the commission of a rape" and, as a separate submission, "during the course of a burglary" would count as 2 submissions. But one submission reading "in the course of a rape and kidnapping" would count as 1 aggravating circumstance.]

Murder was committed for pecuniary gain

1 2 3

Offense was especially heinous, atrocious, or cruel

1 2 3

Murder was committed as course of conduct involving other crimes of violence against other person or persons

1 2 3

Defendant created a great risk of death to more than one person

1 2 3

Defendant previously convicted of a felony involving violence or threat of violence

1 2 3

Murder was committed by a person lawfully incarcerated (a prisoner)

1 2 3

Defendant had been previously convicted of another capital felony (i.e., murder)

1 2 3

Murder was committed to avoid arrest or to escape from custody

1 2 3

Murder was committed to disrupt or hinder lawful exercise of governmental function

1 2 3

Murder of a law enforcement officer or other criminal justice official in the course of their duties, including juror or witness in case involving defendant

1 2 3

Total number of aggravating circumstances submitted (total coded 2 and 3):_____

Total number of aggravating circumstances accepted (total coded 3): _____

Mitigating Circumstances (Statutory and other)

1 = Not Submitted 2 = Submitted but not accepted 3 = Accepted

4 = Acceptance of individual circumstance not required of jury

5 = Aggravator(s) not accepted

8 = Aggravating circumstances ruled by jury as not sufficient to justify death penalty

[all those listed immediately below are **statutory** mitigating circumstance]

Defendant has no significant history of prior criminal activity

1 2 3 4 5 8

Committed while defendant was under influence of mental or emotional disturbance

1 2 3 4 5 8

Age of defendant

1 2 3 4 5 8

Capacity of defendant to appreciate the criminality of his/her conduct or to conform to the requirements of law was impaired

1 2 3 4 5 8

Defendant was an accomplice and participation was relatively minor

1 2 3 4 5 8

Defendant acted under duress or influence of another person

1 2 3 4 5 8

Defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in pursuing a felony case

1 2 3 4 5 8

Victim was a voluntary participant or consented to the homicide

1 2 3 4 5 8

Total mitigating circumstances **considered** (both statutory and non-statutory):_____

Total mitigating circumstances **accepted** (both statutory and non-statutory):_____

[If 5s or 8s, code this entry as 77, meaning mitigators not considered; if 4s, code as 88; enter 99 if missing]

Was any aspect of D's military service (past or present) submitted as a mitigating circumstance?

0 = No 1 = Yes

If yes to military service, did the jury accept it as a mitigating circumstance?

0 = No 1 = Yes 8 = Military service not entered as mitigating

Did jury hear any reference to alcohol/drug use by defendant in conjunction with the crime?

0 = No 1 = Yes

Were any of these entered as mitigating circumstances? (Missing = 9)

D suffered from alcohol abuse:

1 2 3 4 5 8 9

D suffered from drug abuse:

1 2 3 4 5 8 9

D was physically abused as a child or teenager:

1 2 3 4 5 8 9

D was sexually abused as a child or teenager:

1 2 3 4 5 8 9

D suffered from a broken home:

1 2 3 4 5 8 9

D suffered from father absence/father abandonment:

1 2 3 4 5 8 9

D suffered from mother absence/mother abandonment:

1 2 3 4 5 8 9

D placed in foster care:

1 2 3 4 5 8 9

Parental misconduct witnessed by D (fighting, criminal activity, drug use, etc.):

1 2 3 4 5 8 9

Low IQ:

1 2 3 4 5 8 9

A specific mental illness/disorder (specify: _____)

1 2 3 4 5 8 9

This sheet coded by (date): _____

Data verified by (date): _____

Notes: